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ATTORNEYS AT LAW

March 7, 2002

EX PARTE – Via Electronic Filing

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, DC 20554

Re: CC Dockets No. 96-98, 98-147, 01-338, 98-141, 98-56, 01-318,
96-45, 98-77, 98-166, 00-256

Dear Ms. Salas:

On March 4, 2002, Frederick W. Hitz, III, of General Communication Inc. ("GCI"), and I, representing GCI, met with Mr. Tom Navin, Deputy Chief, Policy Division, Common Carrier Bureau, Ms. Gail Cohen, Mr. William Kehoe, Mr. Jeremy Miller, Ms. Christine Newcomb, Mr. Jon Reel, Mr. Rob Tanner, Ms. Julie Veach, and Ms. Elizabeth Yakus, all of the Policy Division, and Mr. Dennis Johnson of the Network Services Division.

On March 5, 2002, Mr. Hitz and I met with Jack Zinman, Deputy Chief, Competitive Pricing Division, Common Carrier Bureau, and Jay Atkinson and Doug Slotten of the Competitive Pricing Division. We also met with Dr. Robert Pepper, Chief, Office of Plans and Policy, Dr. David Sappington, FCC Chief Economist, and Messrs. Donald Stockdale and William Sharkey, of the Office of Plans and Policy. We also met with Mr. Dan Gonzalez, Senior Legal Adviser to Commissioner Kevin Martin, and Mr. Jordan Goldstein, Senior Legal Adviser to Commissioner Michael Copps.

During these meetings, we presented the following points.

GCI is an interexchange carrier, competitive local exchange carrier, cable operator and internet service provider, providing service almost exclusively in Alaska and between Alaska and the lower 48 states. GCI began its CLEC operations in 1997, when it entered the Anchorage market. After five years, GCI has approximately 38% of the Anchorage retail local exchange market, serving business and residential customers in approximately the same proportions as the incumbent LEC. These services

are provided predominantly over UNE-L arrangements. GCI is entering Fairbanks, currently using wholesale resale, transitioning to UNE-L where possible. GCI will shortly be entering Juneau, using UNE-P initially, transitioning to UNE-L where possible. Ultimately, GCI plans to move its customers to cable telephony where possible. GCI's entry in Fairbanks and Juneau was substantially delayed because of rural exemption litigation. GCI has sought interconnection for the Glacier State Study Area (including the Kenai peninsula), and is currently in the state arbitration process.

Competition has brought substantial benefits to Alaska consumers. In Anchorage, the price for the most commonly purchased package of services has dropped 26%. The incumbent LEC has responded to competition by improving its service quality and availability, including scheduling service cutovers for businesses at night, and extending the hours in which customer service centers were open for operation. Competition works to challenge all competitors to provide the most cost-effective service package, with customer friendly service.

Although GCI provides CLEC service predominantly over its own facilities, it would be substantially impaired if the Commission were to eliminate the requirement that ILECs unbundle loops, local switching and transport. GCI's cable facilities do not, and likely will not, reach all customers, particularly but not exclusively in business areas. Likewise, GCI has fiber ring facilities that do not reach all potential customers, and would not reach all potential customers even in combination with GCI's cable facilities. Moreover, ILECs are implementing network architectures, including field concentrators, IDLCs and host/remote configurations that make it very difficult or impossible to serve customers using UNE-L configurations. In those instances, without UNE-P, GCI would be impaired in its ability to provide service to the customer. Moreover, for all these elements, it is critical that the Commission require that all ILEC interconnection agreements include a set of performance measures and self-executing damages/remedies.

In addition, GCI's experience is that the availability of UNE-P or UNE-L is not a disincentive to investment, either for POTS service or for advanced services. The fact that ACS makes unbundled switching available will not deter GCI's deployment of its own switches, nor will the availability of unbundled loops deter GCI from investing in its own loop capability over cable plant. The customer service problems and hidden costs of dealing with a recalcitrant ILEC are simply too high.

Moreover, recent experience in Alaska point out another advantage of all UNE-based entry modes over service-based wholesale resale. The incumbent LEC in Anchorage recently received an interim 24% residential rate increase from the state commission. When the ILEC increased its rates, GCI decided not to increase its rates. Had GCI been on wholesale resale, GCI would have experienced a 24% wholesale rate increase and would therefore have had to increase its retail rates. Instead, GCI, as a UNE-L provider (the same would have been true as a UNE-P provider as well) could act to discipline the price increase in the market. Competition works to create market discipline when CLECs have access to entry tools that are not automatically tied to ILEC retail pricing decisions.

As CLEC retail market share increases, the Commission must be very careful not to succumb to temptations to deregulate prematurely or in areas in which there is no competition. Although GCI can exert retail price discipline, for example, it has no alternative source for loops at this time, and

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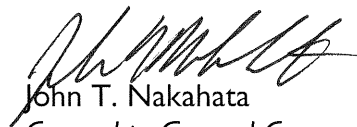
Page 3 of 3

even after it has completed its cable telephony rollout will still be dependent on access to ILEC loops in order to serve some customers. Moreover, as the Commission described in its *CLEC Access Charge Order*, once the customer selects the local exchange provider, the interconnecting IXC has only one supplier of access, and thus there is no competitive restraint. GCI noted, however, that it was not adversely affected by the *CLEC Access Charge Order* because it was already charging for access at the same rates as the ILEC. In addition, pricing flexibility should not be given when there are no alternatives to the ILEC service, such as transport connections between hosts and remotes, and ILECs should not be permitted to impose charges for facilities that are not used by an interconnector. These points are more fully discussed in the comments GCI filed in response to the *MAG Further Notice of Proposed Rulemaking*.

Finally, ILECs and CLECs should not receive differential subsidies from the universal service fund for serving the same customer. To the extent there are market distortions, the appropriate solution would be to reduce the subsidy for all participants to the lowest level necessary for the most efficient provider to provide service. Moreover, it is particularly ironic for ILECs to complain about the effects of averaged UNE loop rates and USF payments when, as is the case in Alaska, they never even proposed deaveraged UNE loop rates.

In accordance with FCC rules, a copy of this letter is being filed in each of the above-captioned dockets.

Sincerely,



John T. Nakahata
Counsel to General Communication, Inc.